

Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 150.310(a)(3). (This is a GIL.)

June 27, 2006

Dear Xxxxx:

This letter is in response to your letter dated June 9, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC requests guidance on the proper tax treatment of equipment leased to customers.

A. STATEMENT OF FACTS

ABC is an accrual basis taxpayer headquartered in CITY/STATE. ABC's primary business is to provide direct-to-home satellite television programming to customers across the United States.

In addition to television programming, ABC also furnishes equipment, primarily receivers (set top boxes) and satellite dishes (antennas) to its subscribers. This equipment is leased to customers for \$5.00 per month per receiver, pursuant to a singed [sic] lease agreement (Agreement) between the customer and ABC. At the end of the lease term, the equipment must be returned to ABC and is then leased to a different customer.

B. RULING REQUESTED

ABC seeks a determination as to whether state sales tax on equipment leased to satellite television customers shall be collected from the customers on the lease stream, or whether ABC is liable for use tax on the equipment that is leased.

Please reply to:

NAME/ADDRESS

Please call with any questions. Thank you.

DEPARTMENT'S RESPONSE:

The State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. The State of Illinois imposes no tax on rental receipts. Consequently, lessees incur no tax liability.

In the case of a true lease, if your company is a lessor of the property being used in Illinois, your company would incur Use Tax obligations on the cost price of the leased property. As a lessor, you must either pay your supplier, if your supplier is registered to collect Illinois Use Tax, or self assess and remit the tax directly to the Department. If, as a lessor, you have already paid taxes in another state with respect to the acquisition of the tangible personal property, then you would be exempt from Illinois Use Tax only to the extent of the amount of such tax properly due and paid in such other state. See Subsection (a)(3) of 86 Ill. Adm. Code 150.310.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk